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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,352	05/23/2006	Tanaka Takashi	OT-5403	1744

7590
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EXAMINER

KRUER, STEFAN

ART UNIT	PAPER NUMBER
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3654

MAIL DATE	DELIVERY MODE
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04/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,352	Applicant(s) TAKASHI ET AL.	
	Examiner Stefan Krueer	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 - 4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11 August 2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

Abstract

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. The abstract should *describe the disclosure sufficiently* to assist readers in deciding whether there is a need for consulting the full patent text for details.

Disclosure

The disclosure is objected to because of the following informalities:

Page 2, Para. 0011, "... located said guide rail's back side..." is preferably written as "... located *by* said guide rail's back side...". Appropriate correction is required.

Specification

The disclosure is objected to because of the following informalities:

Page 2, Para. 0010, "... for the one part" is unclear as to what is the embodiment and/or reference point of "one part". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 - 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the" in:

- **Line 2**, "the elevator shaft" and "the car";
- **Lines 8 and 9**, "the axial direction" and "the end", respectively;
- **Lines 10, 12, 13 and 21**, "the one part", "the projecting ends", "the back edge" and "the spring force", respectively.

Furthermore, **Claim 1, Line 12**, recites the limitation "said" in "said top and bottom plate".

Claims 2, 3 and 4, Lines 3, 3 and 2, respectively, recite the limitation "the" in "the forward part", "the outside surface" and "the bottom surface".

There are insufficient antecedent bases for these limitations in the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 - 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stickler (2,660,959).

Re: Claim 1, Stickler discloses a car fall-prevention apparatus provided with comprising:

- a guide rail (T) installed vertically (Col. 2, L. 3) in a elevator (mine) shaft to guide a car up and down,
- a nearly tubular holding member (6) that is attached to the back surface of said guide rail, and

Art Unit: 3654

- a long plate-like support member (34) attached to said holding member to support the bottom part of said car,
- said holding member is provided with a front wall (7) that is attached to a back surface of said guide rail and a back wall (8) that is arranged opposite said front wall,
- a locking hole (for 27) running in an axial direction of the guide rail that is formed in an end (21 of 9) of said back wall, and stop plates (16, Fig. 5) that are also attached above and below said holding member,
- wherein said support member includes a base (32) and a projecting part (42) that can lock into said locking hole is formed in a back edge of said base, and
- a spindle (27, 30), one end of which rotatably supports said support member from above and below via a slot (recess formed by 21 – 23) formed in the base of said support member, is attached to said holding member such that it can slide axially, and a spring member (49) that pulls said support member toward said holding member is also provided,
- wherein from a standby position, with said support member located on said guide rail's back side and being pulled toward said holding member by a spring force of said spring member, said support member is rotated forward while being pulled away from a side of said holding member against the spring force of the spring member, and a forward end (38) of the support member is positioned in front of the guide rail; however,

Stickler is silent with respect said support member includes a base formed to be able to lock and be held between projecting ends of said stop plates and the base of the support member is held gripped by said top and bottom stop plates.

Nevertheless, the use of stop plates to limit or arrest rotating motion of a rotatable member to define a range of motion and/or to insure a proper positioning of said member in its relation to other interdependent member(s), as well as the manner in which said motion is limited or arrested, would be a matter of selection in design and therefore would have been obvious to one having ordinary skill in the art at the time the invention was made.

In reference to the claim language referring to a projecting part that can lock into said locking hole and a spindle that can slide axially, intended use and other types of functional language must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. In re Casey, 152 USPQ 235 (CCPA 1967); In re Otto, 136 USPQ 458, 459 (CCPA 1963).

Re: Claim 2, Stickler discloses his support member is formed approximately as an L-shape (Fig. 3 and 4), and a capture part (36 and 37), which captures a forward part (nose) of said guide rail after the support member has been rotated toward the front from the back side of said rail.

Re: Claim 3, Stickler discloses wherein a handle (52) for operating said support member is provided on an outside surface of the base of said support member.

Re: Claim 4, Stickler discloses wherein a support base (39) that supports a bottom surface of the car is provided on a side edge (39) of the forward end of said support member, and a reinforcing part that reinforces said support base is also provided on the outside surface of said forward end.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Suzuki (4,331,219) and Davis (4,333,549) are cited for references of car-fall prevention apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571.272.6856. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Art Unit: 3654

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

/Stefan Kruer/

Examiner, Art Unit 3654

30 March 2008

/Peter M. Cuomo/

Supervisory Patent Examiner, Art Unit 3654